

EU Rules Will Impose Mandatory Climate Disclosures on U.S. Companies

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According to a recent report, the climate disclosure rules recently promulgated by the European Union will compel more than 3,000 U.S. companies to file mandatory climate-related disclosures. This fact demonstrates the significant extra-territorial reach of the EU regulations--companies that are not based in the EU will nonetheless have to comply with EU policies.

However, this is not the significant regulatory overreach that it may appear on first glance. Most of the U.S. companies impacted by these regulations conduct significant business in the European Union, whether themselves or through an EU subsidiary. And others that may ultimately need to comply with these regulations conduct a substantial amount of business with EU companies. In other words, these mandatory climate disclosures are a cost of doing business with or within the EU.

Nonetheless, there will likely be significant political objections raised to the far-reaching nature of these laws, especially by conservative politicians who have now obtained control of the U.S. federal government and are in a position of power to influence U.S. climate disclosure policy following the departure of the Biden Administration. From their perspective, it is likely frustrating to see the fruits of a political victory dissipate due to actions by governmental actors outside the United States. It is therefore possible that a newly conservative U.S. federal government may try to utilize other aspects of foreign policy--e.g., trade--to impact or otherwise limit the influence of these disclosure regulations. Whether the EU will ultimately be susceptible to such pressure is a different question entirely.

More than 3,000 US companies will have to issue sustainability reports in line with the European Union's disclosure standards, making them the biggest grouping outside the bloc expected to be impacted by the mandate, according to a new report by KPMG. Companies operating in countries including Germany, France, and Italy are gearing up to use the EU rules, known as the European Sustainability Reporting Standards. The rules take effect starting this year, with the first reports due to be published next year. Overall, around 50,000 firms will eventually have to use the new rules because they are based in the EU, have EU subsidiaries, or are listed on its regulated markets, KPMG estimated in a report released Monday. The total includes thousands of companies headquartered outside the EU which generate significant revenue in the EU, the report said.

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National Law Review, Volume XIV, Number 338

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